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TROP, PRUNER & HU, P.C. 1616 S. VOSS ROAD, SUITE 750 HOUSTON, TX 77057-2631			MEHRPOUR, NAGHMEH	
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DETAILED ACTION

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BEFORE THE BOARD OF PATENT APPEALS AND INTERFERENCES

Application Number: 09/216,483

Filing Date: December 18, 1998

Appellant(s): MISHRA ET AL.

Timothy N. Trop
For Appellant

EXAMINER'S ANSWER

This is in response to the appeal brief filed 01/06/09 appealing from the Office action mailed 10/14/08.

(1) Real Party in Interest

A statement identifying by name the real party in interest is contained in the brief.

(2) Related Appeals and Interferences

The examiner is not aware of any related appeals, interferences, or judicial proceedings which will directly affect or be directly affected by or have a bearing on the Board's decision in the pending appeal.

(3) Status of Claims

The statement of the status of claims contained in the brief is correct.

(4) Status of Amendments After Final

The appellant's statement of the status of amendments after final rejection contained in the brief is correct.

(5) Summary of Claimed Subject Matter

The summary of claimed subject matter contained in the brief is correct.

(6) Grounds of Rejection to be Reviewed on Appeal

The appellant's statement of the grounds of rejection to be reviewed on appeal is correct.

(7) Claims Appendix

The copy of the appealed claims contained in the Appendix to the brief is correct.

(8) Evidence Relied Upon

6112103	Puthuff	9-2000
6,041,225	Jung	3/2000
5,920,806	Gouessant	7-1999
5,943,625	Yeom et al.	8-1999
5,465,401	Thompson	11-1995
5,109,222	Welty	4-1002
6,763,017	Buckingham et al.	7-2004
6,061,435	Grundving et al.	5-2000
5,901,366	Nakano et al.	5-1999
5,671,267	August et al.	9-1997
6,112,098	Flint et al.	8-2000
20020044199	BARZEBAR	4-2002
20060288374	Ferris et al.	12-2006
20050110651	Martis et al.	5-2005

(9) Grounds of Rejection

The following ground(s) of rejection are applicable to the appealed claims:

Claim Rejections - 35 USC § 103

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negatived by the manner in which the invention was made.

Claims 7-14, 15-18, 20-21, 23-25, 27-29, are rejected under 35 U.S.C. 103(a) as being unpatentable over Barzeber et al. (US Publication 2002/0044199 A1) in view of Flint et al. (US Patent 6,112,098).

Regarding Claims 7, 16, 20, Barzeber teaches a remote control 200/article for an electronic device comprising:

a first device 131 including a processor 402/406 arranged to control a radio frequency transceiver 422 and an infrared transceiver 414 (see figure 8, 0054, 0055); and

a remote control 200 unit including a device to remotely control an electronic device 360 and a telephone unit 502 adopted to enable remote communication with a telephone network, the telephone unit 200 including a transceiver 514/522 to remotely communicate with the telephone network (0026), the remote control unit 200 communicating with the first device 131 (see figures 5, 9, 0055, 0059); and

the telephone unit 200 including a device 502 that detect the carrier frequency of a proximate wireless telephone (0048, 0049, 0051, 0055, 0058, 0059).

Barzeber does not specifically mention that a telephone unit automatically tunes to **an unknown** the carrier frequency of a proximate wireless telephone. However, it is well known in portable telephone systems for the remote phone to "detect" **an unknown**

carrier frequency of a base unit. Flints teaches a telephone unit that automatically tunes to the carrier frequency of a proximate wireless telephone (col 3 lines 29-67, col 4 lines 1-36, col 6 lines 42-65). Therefore, it would have been obvious to ordinary skill in the art at the time the invention was made to combine the above teaching of Flint with Barzeber modified in order to provide least amount of interference by selecting the best channel for communications.

Regarding Claim 8, Barzeber teaches a remote control system wherein the telephone unit includes a radio frequency transceiver adapted to remotely communicate with the telephone network (0044, 0045).

Regarding Claim 9, Barzeber teaches a remote control unit wherein the transceiver is tunable to the carrier frequency used by another wireless telephone (0059).

Regarding Claim 11, Barzeber teaches a remote control which forward a wireless transmission received from the telephone to the electronic unit 131 (See figure 1). Barzeber does not specifically mention repeater forwarding "the wireless transmission. However it is well known in the art to use repeater for signal transmission. Therefore, it would have been obvious to ordinary skill in the art at the time the invention was made to repeater for forwarding the wireless transmission, for the purpose of stronger signal.

Regarding Claim 12, Barzeber teaches a remote control system wherein the first device 131 and the remote control unit 200 are adapted to communicate both by radio frequency and infrared signals (see figures 5, 9, 0048, 0049, 0050, 0051, 0057, 0059).

Regarding Claim 13, Barzeber teaches a remote control wherein the first device 131 and the remote control unit 200 communicate via bidirectional infrared signals and the remote control unit 200 communicates with the electronic device 360 using unidirectional infrared signals (see figure 5, 0042, 0043)

Regarding Claim 14, Barzeber teaches a remote control system 200 wherein the control unit 502 is adapted to act as radio frequency transceiver 514/522 for telephone communications with the first device 131 (see figures 5, 9, 0043, 0059).

Regarding Claim 15, Barzeber teaches a control system wherein the first device 31/130/131 is a set-top computer system (see figure 3a, figure 5, and figure 8).

Regarding Claims 17, 18, Barzeber teaches a method including a processor based system that detects, the reference is made to Flint's base to remote incoming call indication and off-hook condition (see col 6 lines 42-65).

Regarding Claim 21, Barzeber teaches a remote control unit 200 including instructions that cause a processor based system to prompt for a wireless telephone carrier frequency (0043, 0044, 0058, 0059).

Regarding Claim 23, Barzeber teaches a remote control unit 200 including instructions that cause a processor based system to use for a wireless telephone carrier frequency (0014, 0043, 0044, 0058, 0059).

Regarding Claim 25, Barzeber teaches an article including instruction that cause a processor based system to receive infrared command signals in one format and to transmit infrared command signals in a second format (014, 0043, 0044)

Regarding Claim 27, Barzeber teaches an article/method further storing instructions that enables the processor based system to prompt the user to issue a page from the user's wireless telephone (0050, 0055).

Regarding Claim 28, Barzeber teaches method further including prompting the user to issue a page from the user's wireless telephone (0032).

Regarding Claim 29, Barzeber teaches a system further including a storage storing instructions that enable the processor to prompt the user to issue a page on the user's wireless telephone (0032).

(10) Response to Argument

No decision rendered by a court or the Board is identified by the examiner in the Related Appeals and Interferences section of this examiner's answer.

Applicant's arguments filed 01/06/09 have been fully considered but they are not persuasive.

Applicant's arguments with respect to claims 7-18, 20-21, 23-25, 27-29 have been considered. Specifically, applicant argued that there is no telephone unit including a detector to detect a carrier frequency "of a proximate wireless telephone" or a telephone unit "being tunable to automatically tune to the carrier frequency of the proximate wireless telephone". Applicant argues that when purchased, the remote telephone "learns" the carrier frequency of the user's pre-purchased wireless telephone system. The remote control then automatically tunes to the detected wireless frequency.

While the Office disagrees with this assessment, i.e., it is known for cordless telephones to have multiple carrier frequencies from which to chose in order to reduce the interference on any one given channel, the Office previously re-opened prosecution and provided a reference that explicitly teaches this concept. With respect to the claimed "unknown carrier frequency", Flint teaches the creation of channel table histories and exchanging between the base and handset units. Both the mobile and base perform channel scans in order to create said history tables corresponding to available frequencies having the best received signal strength.

With respect to applicant's argument that in Flint, the mobile telephone is scans "its available channels", the examiner agrees that the mobile telephone scans its available channels. However, any one of said channels may be the carrier frequency for the next available conversation. All mobile telephones are assigned to one frequency band or another and thus to an extent, know the frequencies available and have the internal hardware that passes the given frequency band. Otherwise, the "mobile telephone" would have to incorporate an extremely large bandpass filter to permit all possible frequencies, including frequencies that are not authorized for mobile telephone usage.

Therefore, to a certain extent, a mobile telephony system would have to know what its available transmit/receive frequency band is, even if the mobile telephone has to scan for a specific carrier frequency.

(11) Related Proceeding(s)Appendix

No decision rendered by a court or the Board is identified by the examiner in the Related Appeals and Interferences section of this examiner's answer.

For the above reasons, it is believed that the rejections should be sustained.

Respectfully submitted,

Conferees:

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